

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District WESTERN	
Name ROY LEE GREEN		Prisoner No. 238081	Case No. 970197 "B"
Place of Confinement WINN CORRECTIONAL CENTER		RECEIVED USDC, WESTERN DISTRICT OF LA ROBERT H. SHERWELL, CLERK ALEXANDRIA, LOUISIANA	
Name of Petitioner (name under which convicted) ROY LEE GREEN <small>WESTERN DISTRICT OF LOUISIANA SHREVEPORT, LOUISIANA</small>		Name of Respondent (authorized person having custody of petitioner) TIM WILKINSON, WARDEN JUDGE WALTER	
The Attorney General of the State of: LOUISIANA		MAG. JUDGE HORNSBY	

PETITION

1. Name and location of court which entered the judgment of conviction under attack _____
11TH JUDICIAL DISTRICT COURT, PARISH OF DESOTO, LOUISIANA
2. Date of judgment of conviction **SEPTEMBER 16, 1997**
3. Length of sentence **FORTY (40) YEARS AT HARD LABOR**
4. Nature of offense involved (all counts) **1-COUNT OF FORCIBLE RAPE**

5. What was your plea? (Check one)

(a) Not guilty ☒

(b) Guilty ☐

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☒

(b) Judge only ☐

7. Did you testify at the trial?
 Yes ☒ No ☐

8. Did you appeal from the judgment of conviction?
 Yes ☒ No ☐

9. If you did appeal, answer the following:

- (a) Name of court SECOND CIRCUIT COURT OF APPEALS
- (b) Result AFFIRMED CONVICTION AND SENTENCE
- (c) Date of result and citation, if known DECEMBER 09, 1998
- (d) Grounds raised EXCESSIVE SENTENCE AND INSUFFICIENT EVIDENCE
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:
- (1) Name of court LA. SUPREME COURT
- (2) Result DENIED WITHOUT REASONS
- (3) Date of result and citation, if known NOT KNOWN
- (4) Grounds raised WRIT OF REVIEW WAS FILED PRO SE ON ORIGINAL

BRIEF

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court N/A
- (2) Result N/A
- (3) Date of result and citation, if known N/A
- (4) Grounds raised N/A

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court N/A
- (2) Nature of proceeding N/A
- (3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒

(5) Result AFFIRMED CONVICTION AND SENTENCE

(6) Date of result DATE NOT KNOWN

(b) As to any second petition, application or motion give the same information:

(1) Name of court LOUISIANA SUPREME COURT

(2) Nature of proceeding REMEDIAL WRITS

(3) Grounds raised SAME GROUNDS URGED IN APPEALS COURT

NO. 99-KO-0303

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒

(5) Result AFFIRMED COURT'S DECISION

(6) Date of result NOT KNOWN

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐

(2) Second petition, etc. Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

PETITIONER DID IN FACT APPEAL EACH DECISION

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: WAS THE EVIDENCE INSUFFICIENT TO ENTER A CONVICTION

Supporting FACTS (state *briefly* without citing cases or law) _____

(REFER TO MEMORANDUM OF LAW ATTACHED)

B. Ground two: EXCESSIVE SENTENCE IN REFERENCE TO IMPROPER

VERDICT RENDERED BY THE JURY AND THIS CASE IN POINT

Supporting FACTS (state *briefly* without citing cases or law): _____

(REFER TO MEMORANDUM OF LAW ATTACHED)

C. Ground three: _____

DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL

Supporting FACTS (state *briefly* without citing cases or law): _____

REFER TO MEMORANDUM OF LAW

D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law): _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

ALL ISSUES HAVE BEEN EXHAUSTED IN STATE COURT'S OF LA.

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing W. CHARLES RBOWN, 115 N. WASHINGTON ST.

SUITE 6, MANSFIELD, LA. 71052

(b) At arraignment and plea SAME AS ABOVE IN 15(a)

AO 241 (Rev. 5/85)

(c) At trial _____
 SAME AS ABOVE IN 15(a)

(d) At sentencing _____
 SAME AS ABOVE IN 15(a)

(e) On appeal PEGGY SULLIVAN, LA. APPELLATE PROJECT, 105 verson st.
WEST MONROE, LA 71291

(f) In any post-conviction proceeding _____
 PRO SE

(g) On appeal from any adverse ruling in a post-conviction proceeding _____
 PRO SE

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____
 N/A

(b) Give date and length of the above sentence: _____ N/A

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

N/A

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

NTA

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

8-88-05

(date)

Ry Green

Signature of Petitioner

FEBRUARY 28, 2005

ROY LEE GREEN, #238081
WNC B-C2, P.O. BOX 1260
WINNFIELD, LA 71483-1260

RECEIVED
USDC, WESTERN DISTRICT OF LA
ROBERT H. SHEMWELL, CLERK
ALEXANDRIA, LOUISIANA
DATE 3-2-05
BY mlf

CLERK'S OFFICE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
105 POST OFFICE BLDG.
515 MURRAY ST.
ALEXANDRIA, LA 71309-1269

RE: PETITION UNDER 28 USC § 2254

DEAR CLERK:

Enclosed, you will find one (1) original and six (6) copies of the above referenced application that I request to be filed and lodged on the docket of this Honorable Court. Also, attached you will find an Application for leave to Proceed in Forma Pauperis that I further request to be filed and lodged on the docket of this Honorable Court

Moreso, you will find several attachments that I have provided in an effort to prove my case in this matter. In advance, I thank you for your concern and consideration in this very important matter at hand.

WITH KINDEST REGARDS, I REMAIN

SINCERELY RESPECTFUL,


ROY LEE GREEN

xc: DISTRICT ATTORNEY
PARISH OF DESOTO